

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal reserve banks)

January 12, 1939

Honorable Preston Delano,  
Comptroller of the Currency,  
Washington, D. C.

Dear Mr. Delano:

This refers to Mr. Upham's letter of December 21, 1938, requesting the Board's views concerning a question raised by Mr. \_\_\_\_\_, Special Deputy Secretary of Banking of \_\_\_\_\_, with respect to the interpretation of the following footnote appended to sections 12 and 10(c) of the Board's Regulation F:

"This does not prevent the bank from investing the funds of several trusts in a single real estate loan of the kind which could be made by the bank under the provisions of section 24 of the Federal Reserve Act, as amended, if the bank owns no participation in the loan and has no interest therein except as trustee or other fiduciary."

After stating that the (State) law permits the investment of trust funds in real estate loans which a national bank is not permitted to make under the provisions of section 24 of the Federal Reserve Act, Mr. \_\_\_\_\_ inquires whether the foregoing footnote precludes a national bank from investing trust funds in real estate loans which comply with the State law with respect to trust investments but which could not be made by the bank because they represent too large a percentage of the appraised value of the security.

The footnote permits a national bank to invest funds of two or more trusts in participations in a single real estate loan without regard to the otherwise applicable provisions of sections 12 and 10(c) of Regulation F requiring that the securities and investments of each trust shall be kept separate from those of all other trusts and prohibiting the collective investment of trust funds (except as permitted in section 17, which relates to common trust funds). However, such permission is qualified and trust funds cannot be invested pursuant thereto unless (1) regardless of what constitutes a legal investment for trust funds under the laws of the

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particular State, the loan at least complies with the requirements of section 24 of the Federal Reserve Act with respect to the kind of real estate loans which national banks may make with their own funds, and (2) the bank owns no participation in the loan and has no interest therein except as fiduciary. The footnote, of course, has no bearing upon the type of real estate loans in which trust funds may be invested except where funds of two or more trusts are invested in participations in a single real estate loan.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,  
Assistant Secretary.